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Formal recognition of foreign divorce decrees

Heruntergeladen am 16.06.2025

<https://fimportal.de/xzufi-services/109387860/L100041>

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| Leistungsschlüssel | 99095001016000, 99095001016000 |
| Leistungsbezeichnung I | Formal recognition of foreign divorce decrees |
| Leistungsbezeichnung II | Formal recognition of foreign divorce decrees |
| Typisierung | 2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug |
| Quellredaktion | Brandenburg |
| Freigabestatus Katalog | unbestimmter Freigabestatus |
| Freigabestatus Bibliothek | fachlich freigegeben (silber) |
| Begriffe im Kontext | |
| Leistungstyp | Leistungsobjekt mit Verrichtung |
| Leistungsgruppierung | Scheidung (095) |
| Verrichtungskennung | Anerkennung (016) |
| SDG-Informationsbereich | Leben in einer binationalen Partnerschaft, auch einer gleichgeschlechtlichen Partnerschaft (Eheschließung, zivile/eingetragene Partnerschaft, Trennung, Scheidung, Güterrecht, Rechte von Lebenspartnern) |

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| Lagen Portalverbund | Scheidung (1020400) |
| Einheitlicher Ansprechpartner | Nein |
| Fachlich freigegeben am | 05.11.2020 |
| Fachlich freigegeben durch | Senator for Justice and Constitution of the Free Hanseatic City of Bremen |
| Handlungsgrundlage | https://www.gesetze-im-internet.de/famfg/__107.html https://www.gesetze-im-internet.de/jvkostg/_4.html https://www.gesetze-im-internet.de/jvkostg/anlage.htm |
| Teaser | If your marriage was divorced outside Germany, you can have this decision formally recognized in Germany. |
| Volltext | <p>According to the general principles of state and international law, judgments and comparable acts of state generally have direct legal effect only in the territory of the state in which they were issued. Each state is free to decide whether and, if so, under what conditions it recognizes foreign sovereign acts, insofar as it is not bound by international treaties.</p> <p>Recognition is required for foreign decisions by which a marriage has been declared null and void, annulled, divorced in accordance with the marriage contract or while maintaining the marriage contract, or by which the existence or non-existence of a marriage between the parties has been established. This applies in particular to foreign divorce decrees, but also to comparable decisions by (for example, Russian) administrative authorities or so-called private divorces before religious courts such as the Arab Sharia courts or the rabbinate courts in Israel, as well as declarations of divorce before a Thai registry office.</p> <p>A formal recognition procedure is not required if an authority of the state to which both spouses belonged exclusively (i.e. no dual nationality) at the time of the decision was involved in the foreign decision (so-called home state decision).</p> <p>A formal recognition procedure does not have to be</p> |

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carried out for decisions in matrimonial matters from member states of the European Union - except Denmark - if the proceedings were initiated after March 1, 2001 or after the accession of the member state at a later date.

The decision is given only upon application. In addition to the spouses concerned, any person who can credibly demonstrate a legal interest in clarifying the status issue (e.g. fiancées, subsequent spouses or heirs) is entitled to file an application. The pension insurance institutions also have their own right of application. Recognition is granted upon application. The foreign decision only becomes effective in the German legal sphere once the application has been granted by a decision.

Both the recognition and non-recognition decisions of the state judicial administration are binding on all courts and authorities in Germany, Section 107 (9) FamFG. With the recognition of the foreign divorce, the marriage is also deemed to have been dissolved for the German legal sphere with retroactive effect to the date of the foreign divorce. The decision under section 107 FamFG extends exclusively to the pronouncement of the divorce (change of status from "married" to "divorced"). Any provisions made in the foreign decision on matters subsequent to divorce (e.g. provisions on maintenance, custody and pension equalization) are not affected.

Erforderliche Unterlagen

In addition to the fully completed and signed application form (available on the homepage of the relevant state judicial administration or from the registrar), the following documents must be submitted in the ****original**** (additional documents may be required in individual cases):

- Marriage certificate or family register extract or marriage register extract of the divorced marriage as proof of the marriage.
- Complete ****copy**** or ****certified copy of**** the foreign decision issued by the court of the decision-making state with facts and reasons. As far as an official divorce is concerned, a divorce certificate or

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an extract from the divorce register must be submitted.

- Proof of the legal force of the foreign judgment (either by a legal force note on the judgment, by a separate document or by an entry in the register of civil status).
- Proof of entry in the register in the case of countries where this is required for the validity of the decision.
- Translations of all foreign language documents prepared by a recognized translator in Germany.
- Certificate of the applicant's earnings/income.
- Written power of attorney, if the application is submitted by an authorized representative.
- Copy of the applicant's valid passport.

The documents will be returned to you at the end of the procedure.

The originals of the documents must always be provided with the legalization of the competent German mission abroad or with the apostille of the competent foreign home authority.

In the case of ****legalization****, the German embassy in the country of divorce confirms that

- the signatures on the document are genuine and
- the signatory was authorized to issue public documents.

Several countries have concluded the Hague Convention of 05.10.1961 on the Exemption of Foreign Public Documents from Legalization in order to simplify the process of over-authentication by legalization. According to Art. 3, para. 1 of the Convention, legalization is replaced by the ****apostille**** between the contracting states. It is issued by the competent authority of the state that issued the document. According to Art. 5, para. 2 of the Convention, the apostille attests to a rebuttable presumption of the authenticity of the document.

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Special guidelines apply to documents from countries whose legal systems, in the opinion of the German Foreign Office, have such serious deficiencies that legalization is no longer justifiable. As a rule, these documents are checked for authenticity and accuracy of content by the German mission abroad by way of administrative assistance. The applicant must bear the costs incurred as a result.

Voraussetzungen

Recognition is required for foreign judgments by which a marriage has been declared null and void, annulled, divorced in accordance with the marriage contract or while maintaining the marriage contract, or by which the existence or non-existence of a marriage between the parties has been established. This applies in particular to foreign divorce decrees, but also to comparable decisions by (for example, Russian) administrative authorities or so-called private divorces before religious courts such as the Arab Sharia courts or the rabbinic courts in Israel, as well as declarations of divorce before a Thai registry office.

A formal recognition procedure is not required if the foreign decision was made by an authority of the state to which both spouses belonged ****exclusively**** at the time of the decision (so-called home state decision). A home state decision does not exist if one of the spouses held another nationality in addition to the nationality of the state of divorce at the time of the divorce or if at least one of the spouses was subject to a personal statute other than that of the state of divorce at the time of the divorce as a homeless foreigner, person entitled to asylum or foreign refugee. Provided there is a legal interest, formal recognition may also be granted upon request in cases of a home state decision.

A formal recognition procedure is not to be carried out for decisions in matrimonial matters from member states of the European Union - except Denmark - if the proceedings were initiated after March 1, 2001 or after the accession of the member state at a later date.

The decision is given only upon application. In addition

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to the spouses concerned, any person who can credibly demonstrate a legal interest in clarifying the status issue (e.g. fiancées, subsequent spouses or heirs) is entitled to file an application. The pension insurance institutions also have their own right of application. Recognition is granted upon application. The foreign decision only becomes effective in the German legal sphere once the application has been granted by a decision.

Kosten

- For the determination that the requirements for the recognition of a foreign decision are met: EUR 15.00 to EUR 305.00.
- In assessing the fee, particular account shall be taken of the importance of the matter for the parties involved, the scope and difficulty of the official act and the income and financial circumstances of the person filing the application.
- In case of rejection or withdrawal of the application: half of the fee for the recognition decision, but at least EUR 15.00.

Verfahrensablauf

After the general requirements and the documents submitted have been examined, the former spouse of the applicant is granted a hearing.

- A hearing period will be set for this purpose.
- In order to be able to carry out the required hearing, the current and serviceable address of the former spouse is therefore always required. Serviceable means that the address must be given in full (current surname, street name, house and, if applicable, apartment number, postal code, etc.).
- If the party to be heard is domiciled abroad, the address must be provided at least in the international postal language (French) and, if necessary, additionally in the script and language of the country of receipt.
- Violation of the right to be heard may lead to the annulment of the decision.
- The person filing the request must make all reasonable efforts to ascertain the address. Should the address nevertheless not be ascertainable, the impossibility of obtaining it must be proven.

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| Bearbeitungsdauer | <p>Provided that all the necessary documents are available, the processing time is at least one to four months, depending on the individual case and the processing time of the competent state judicial administration. The former spouse of the applicant must be granted a legal hearing in the recognition procedure; a hearing period is set for this purpose. Return letters or replies from the persons to be heard may lead to a delay in the procedure.</p> |
| Frist | None |
| weiterführende Informationen | <p>https://www.olg-duesseldorf.nrw.de/aufgaben/anerken_nung_ausl__ehescheidungen/index.php https://www.justiz.bayern.de/gerichte-und-behoerden/oberlandesgerichte/muenchen/verfahren_01.php</p> |
| Hinweise | <p>A decision on the application will be made in a written procedure. Even if applications/documents are submitted during opening hours, they will not be examined immediately. Procedures are generally processed in the order in which they are received. Requests for status by telephone should be refrained from in order to ensure a speedy and continuous processing of all incoming applications.</p> |
| Rechtsbehelf | <p>Application for a court decision to the civil division of the locally competent higher regional court</p> |
| Kurztext | <ul style="list-style-type: none"> • Foreign divorce decree recognition • Eligible to apply: <ul style="list-style-type: none"> • Affected spouses • any person who can credibly demonstrate a legal interest in clarifying the status issue, e.g. fiancées, subsequent spouses or heirs, pension insurance institutions • Use the form of the competent judicial administration (available on the respective homepage) and submit the documents indicated there as well. • Responsible: <ul style="list-style-type: none"> • Judicial administration of the federal state in which a spouse has his or her habitual residence or • without residence in Germany, the judicial administration of the state in which a new marriage is to be entered into or a civil partnership is to be |

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| | <p>established or</p> <ul style="list-style-type: none"> • no other jurisdiction is given: Judicial Administration of the Land of Berlin (Senate Administration for Justice, Diversity and Anti-Discrimination in Berlin). |
| Ansprechpunkt | <p>The application can be submitted using the form provided</p> <ul style="list-style-type: none"> • via a German registry office, e.g. in connection with the issue of a certificate of no impediment to marriage or the intended marriage or establishment of a civil partnership there, • via a German diplomatic mission abroad or • directly to the office responsible for recognition. |
| Zuständige Stelle | <p>The judicial administration of the country in which one of the spouses has their habitual residence is responsible. If neither of the spouses has their habitual residence in Germany, the judicial administration of the Land in which a new marriage is to be entered into or a civil partnership is to be established has jurisdiction; the Land judicial administration may demand proof that the marriage or the establishment of the civil partnership has been registered.</p> <p>If no other jurisdiction exists, the Berlin State Justice Administration (Senate Department for Justice, Diversity and Anti-Discrimination in Berlin) is responsible.</p> <p>The application can be submitted using the appropriate form and documents via a German registry office, e.g. in connection with the issue of a certificate of no impediment to marriage or the intended marriage or establishment of a civil partnership, via a German diplomatic mission abroad or directly to the office responsible for recognition.</p> |
| Formulare | yes |
| Ursprungsportal | Förmliche Anerkennung von ausländischen Scheidungsurteilen, Formal recognition of foreign divorce decrees |